



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  MEMORIAL HERMANN HOSPITAL SYSTEM 3200 SOUTHWEST FRWY SUITE 2200 HOUSTON TX 77027	MFDR Tracking #: M4-07-4790-01  DWC Claim #:  Injured Employee:
Respondent Name and Box #:  TRAVELERS INDEMNITY CO Box #: 05	Date of Injury:  Employer Name:  Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The medical records indicate the patient presented to the emergency room with a right femoral neck fracture. St. Paul Travelers denied any reimbursement to the hospital for the alleged failure that the hospital bill was not received timely. The hospital submitted its bill to St. Paul Travelers on June 2, 2006. Also enclosed is the hospital's collection notes. On April 3, 2006, the employer instructed the hospital to send the bills to the employer and, in turn, the employer forwards the bill to their workers' compensation carrier. On April 25, 2006, the hospital faxed its bill to the employer. On May 23, 2006, the employer told the hospital it had received its bill and provided the workers' compensation insurance information. On June 2, 2006, the hospital mailed its bill to St. Paul Travelers. All of this information is documented in the enclosed collection notes submitted for your review."

**Amount in Dispute:** \$22,582.63

### PART III: RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** The respondent did not submit a response to this request for medical fee dispute resolution.

### PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
4/2/2006 through 4/5/2006	29, TXH3, W4	Inpatient Trauma Surgery Admission	\$22,582.63	\$0.00
<b>Total Due:</b>				<b>\$0.00</b>

### PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Use of the Fee Guidelines*, effective May 16, 2002 set out the reimbursement guidelines.

This request for medical fee dispute resolution was received by the Division on April 2, 2007.

#### **Background**

1. Texas Labor Code §408.027, titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2005, sets out the deadline for timely submitting the medical bills to the insurance carrier.
2. Division rule at 28 TAC § 102.4(h), titled *General Rules for Non-Commission Communication*, effective May 1, 2005, sets out rules to determine when written documentation was sent.
3. Division rule at 28 TAC §133.307, titled *MDR of Fee Disputes*, effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, sets out the procedures and requirements for filing medical fee dispute resolution.

4. Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, titled *Medical Reimbursement*, states that in absence of an applicable fee guideline, reimbursement for health care shall be fair and reasonable.
5. Texas Labor Code §413.011 states that fee guidelines must be fair and reasonable.
6. Division rule at 28 TAC §134.401, effective August 1, 1997, 22 TexReg 6264, requires that when "Trauma (ICD-9 codes 800.0-959.50)" diagnosis codes are listed as the primary diagnosis, reimbursement for the entire admission shall be at a fair and reasonable rate.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 8/18/2006

- 29, TXH3-The time limit for filing has expired. Per Texas Labor Code 480.027, bills must be sent to the carrier on a timely basis, within 95 days from dates of service.

Explanation of benefits dated 9/15/2006

- 29- The time limit for filing has expired. Per Texas Labor Code 480.027, bills must be sent to the carrier on a timely basis, within 95 days from dates of service.
- W4-Denial after reconsideration.

### **Issues**

1. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code §408.027(a)?
2. Is the requestor entitled to reimbursement?

### **Findings**

1. Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

Division rule at 28 TAC § 102.4(h), titled *General Rules for Non-Commission Communication*, effective May 1, 2005 states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission or,
- (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

The requestor states in the position summary that "The hospital submitted its bill to St. Paul Travelers on June 2, 2006. Also enclosed is the hospital's collection notes. On April 3, 2006, the employer instructed the hospital to send the bills to the employer and, in turn, the employer forwards the bill to their workers' compensation carrier. On April 25, 2006, the hospital faxed its bill to the employer. On May 23, 2006, the employer told the hospital it had received its bill and provided the workers' compensation insurance information. On June 2, 2006, the hospital mailed its bill to St. Paul Travelers."

A review of the documentation submitted finds the requestor submitted a copy of a hospital bill that has a creation date of 6/2/2006. The requestor did not submit a fax confirmation report, personal delivery or electronic transmission report, postmarked mail or signature date on written communication to support the position that the medical bill was sent timely.

The Division finds that the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute in accordance with Texas Labor Code Section §408.027(a).

2. This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.401(c)(5)(A), effective August 1, 1997, 22 TexReg 6264, which requires that when "Trauma (ICD-9 codes 800.0-959.50)" diagnosis codes are listed as the primary diagnosis, reimbursement for the entire admission shall be at a fair and reasonable rate. Review of box 67 on the hospital bill finds that the principle diagnosis code is listed as 820.8. The Division therefore determines that this inpatient admission shall be reimbursed at a fair and reasonable rate pursuant to Division rule at 28 Texas Administrative Code §134.1 and Texas Labor Code §413.011(d).

Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas

Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

Division rule at 28 TAC §133.307(c)(2)(F)(iii), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues." Review of the submitted documentation finds that the requestor has not discussed how the Labor Code, Division rules and fee guidelines impact the disputed fee issues. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(c)(2)(F)(iii).

Division rule at 28 TAC §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the submitted documentation supports the requestor position for each disputed fee issue." Review of the requestor's documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(c)(2)(F)(iv).

Division rule at 28 TAC §133.307(c)(2)(G), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:

- The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
- The requestor does not discuss or explain how payment of \$22,582.63 would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- The Division has previously found that a reimbursement methodology based upon payment of a hospital's billed charges, or a percentage of billed charges, does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the *Acute Care Inpatient Hospital Fee Guideline* adoption preamble which states at 22 Texas Register 6276 (July 4, 1997) that:

"A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources."
- The requestor does not discuss or explain how payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.
- The requestor did not discuss or support that the proposed methodology would ensure that similar procedures provided in similar circumstances receive similar reimbursement.
- The requestor did not submit nationally recognized published studies, published Division medical dispute decisions, or documentation of values assigned for services involving similar work and resource commitments to support the proposed methodology.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

## **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the requestor's position that the medical bill was submitted timely in accordance with Texas Labor Code §408.027(a) and Division rule at 28 TAC § 102.4(h). The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code

§133.307(c)(2)(F)(iii), §133.307(c)(2)(F)(iv) and §133.307(c)(2)(G). The Division further concludes that the requestor failed to support its position that reimbursement is due. As a result, the amount ordered is \$0.00.

#### PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code §413.011(a-d), §413.031 and §413.0311  
28 Texas Administrative Code §133.307, §134.1, §134.401  
Texas Government Code, Chapter 2001, Subchapter G

#### PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute.

##### DECISION:

_____	_____	<b>12/3/2010</b>
Authorized Signature	Medical Fee Dispute Resolution Officer	Date
_____	_____	<b>12/3/2010</b>
Authorized Signature	Medical Fee Dispute Resolution Manager	Date

#### PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**